

# GENERAL TERMS AND CONDITIONS FOR SERVICES OF SVRI ELECTRICAL ENGINEERING

## Article 1 Definitions

1. In the present general terms and conditions, the following terms are used in the sense given below, unless explicitly indicated otherwise.

SVRI: SVRI Electrical Engineering, Fazant 10 in Barendrecht, the Netherlands.

Client: the opposite party of SVRI.

Agreement: the agreement concerning the provision of services.

## Article 2 General

1. The present terms and conditions shall apply to each and every offer, tender and agreement between SVRI and a client, insofar as parties have not explicitly deviated from the present terms and conditions in writing.

2. The present terms and conditions shall also apply to all agreements with SVRI, the execution of which calls for the services of third parties.

3. Possible deviations from the present general terms and conditions shall only be valid provided they have been explicitly agreed upon in writing.

4. The applicability of client's possible purchase or other conditions is explicitly rejected.

5. If one or more stipulations in the present general terms and conditions should be null and void or declared null and void, then the other stipulations of the present general terms and conditions shall remain fully applicable. The case ensuing, SVRI and client shall enter into negotiations to agree upon new stipulations replacing the null and void conditions, or, as the case may be, the conditions declared null and void, whereby the purpose and the meaning of the original conditions shall be heeded as far as possible.

## Article 3 Offers and Tenders

1. All offers and tenders shall be free of obligation.

2. The prices given in above-mentioned offers and tenders shall be exclusive of VAT and other government levies, as well as of the other expenses to be possibly made within the scope of the agreement, including shipment and administration costs, unless SVRI indicates otherwise.

3. A compound quotation shall not oblige SVRI to execute part of the assignment against a corresponding part of the given quotation.

## Article 4 Execution of the Agreement

1. SVRI shall execute the agreement to the best of his knowledge and ability.

2. SVRI shall have the right to have work done by third parties.

3. The client shall see to it that SVRI shall be provided in due time with all data which SVRI has said to be necessary or which the client must in all reasonableness understand to be necessary to the execution of the agreement. If SVRI has not been provided in due time with the data necessary to the execution of the agreement, SVRI shall have the right to suspend the execution of the agreement and / or to charge the client for the additional costs resulting from the delay at the generally accepted rates.

4. SVRI shall not be liable for damage of whatever nature caused by the fact that SVRI worked on the basis of incorrect and / or incomplete data provided by the client.

5. If parties have agreed that the agreement will be executed in stages, SVRI can suspend the execution of the parts belonging to a following stage until the client has approved in writing the results of the stage prior to it.

6. If SVRI or third parties engaged by SVRI within the scope of the assignment do work at client's site or at a site designated by client, client shall provide the employees having to work there free of charge with all facilities desired in all reasonableness by said employees.

7. Client shall safeguard SVRI against possible claims filed by third parties who may sustain damage attributable to client in connection with the execution of the agreement.

## Article 5 Changes to the agreement

1. If it is shown during the execution of the agreement that the work to be done needs to be changed and supplemented in order to ensure its proper execution, parties shall adapt the agreement accordingly in due time and in mutual consultations.

2. If parties agree that the agreement needs to be changed or supplemented, this decision may influence the time of completion of the execution. SVRI shall inform the client thereof as soon as possible.

## Article 6 Duration of the Contract; Term of Execution

1. The agreement between SVRI and a client shall be entered into for an indefinite period of time, unless the nature of the agreement dictates otherwise or if parties have explicitly agreed otherwise in writing.

2. If a term has been agreed to complete certain work within the term of the agreement, then this term shall never be a term to be observed on penalty of forfeiture of rights. If the term of execution is exceeded, the client must consequently declare SVRI in default in writing.

## Article 7 Fee

1. If no fixed fee has been agreed upon, the fee shall be determined on the basis of the number of hours actually spent on the work. The fee shall be calculated in accordance with the usual hourly rates of SVRI, valid for the period in which the work is being done, unless a deviating hourly rate has been agreed upon.
2. With respect to assignments with a duration of more than 1 month, SVRI shall have the right to charge the costs owed periodically.
3. SVRI shall be allowed to charge on price increases, if SVRI can demonstrate that significant changes in price have occurred between the time of offer and the time of delivery with respect to, e.g., salaries and wages.
4. SVRI shall furthermore be able to increase the fee when it is shown during the execution of the work that the volume of work initially agreed upon or expected when the contract was concluded, was underestimated to such a degree, and this through no fault of the SVRI, that SVRI cannot be expected in reasonableness to do the work agreed upon for the fee initially agreed upon.
5. In case of increase of the fee, client shall be entitled to dissolve the agreement if fee or rate is increased within three months after date of agreement. After this period of time, client shall be entitled to dissolve the agreement if the increase amounts to more than 10%. Client shall not be entitled to dissolve the agreement if the increase of fee or rate is the result of a authority by law.
6. SVRI shall notify the client in writing of his intention to increase the fee or the hourly rate, whereby SVRI shall communicate the volume of said increase and the date on which it shall take effect.
7. If client does not wish to accept the increase in fee or hourly rate communicated by SVRI, client shall be entitled to terminate the agreement in writing within seven working days following the above-mentioned notification, or to cancel the assignment by the date given in the notification of SVRI on which the change in fee or hourly rate would take effect.

#### **Article 8 Payment**

1. Payment must be made within 30 days from the date of invoice, in a way to be indicated by SVRI and in the currency in which the statement of expenses was drawn up. Contestation of the amount of the statements of expenses shall not suspend the fulfilment of the payment obligation
2. If client fails to fulfil his payment obligation within the term of 30 days, then client shall be in default by operation of law. In that event, client shall owe an interest of 1% per month, unless the statutory interest rate is higher, in which case the statutory interest rate shall apply. The interest on the amount due and payable shall be calculated as from the day the client is in default until the moment he has paid the amount in full.
3. Claims of SVRI against client shall become due on demand in the event that client's company is wound up, attached, declared bankrupt, or if a suspension of payment is granted.
4. SVRI shall be entitled to have the payments made by the client go first of all to reduce the costs, subsequently to reduce the interest still due and finally to reduce the principal sum and the current interest. SVRI shall have the right, without this leading SVRI to be in default, to refuse an offer for payment, if the client designates a different sequence of attribution. SVRI shall be entitled to refuse full payment of the principal sum, if said payment does not include the interest still due, the current interest and the costs.

#### **Article 9 Retention of Title**

1. All goods delivered by SVRI, possibly also including designs, sketches, drawings, films, software and (electronic) files shall remain property of SVRI until client has fulfilled all of his obligations under all agreements concluded with SVRI.
2. Client shall not be authorised to pledge or encumber in any way the goods falling under the retention of title.
3. If third parties seize goods delivered subject to retention of title or wish to establish or assert a right to them, client shall be held to inform SVRI thereof as soon as can reasonably be expected.
4. The client shall undertake to insure the goods delivered subject to retention of title and to keep them insured against damage caused by fire, explosion and water as well as against theft and make this insurance policy available for inspection on first demand.
5. Goods delivered by SVRI falling under the retention of title by virtue of the stipulations under 1. of the present article, may only be sold on within the framework of normal business activities and must never be used as instrument of payment.
6. In the event that SVRI wishes to exercise his ownership rights mentioned in the present article, client shall give SVRI or third parties to be appointed by SVRI, now for then, unconditional and irrevocable permission to access all sites and locations where property of SVRI might be found and to take these goods back.

#### **Article 10 Collection Charges**

1. If the client fails to fulfil his obligations (in due time) or defaults on them, then all reasonable costs incurred to have all extrajudicial costs and debts paid shall be borne by the client. The client shall in any case owe the collection charges in the event of a monetary claim. The collection charges shall be calculated in accordance with the collection rates advised by the Nederlandse Orde van Advocaten (Netherlands Bar) for collection procedures.
2. If SVRI demonstrates that he has incurred higher expenses, which were necessary in reason, said expenses shall also qualify for reimbursement.
3. The reasonable judicial and execution costs possibly incurred shall equally be borne by client.

#### **Article 11 Inspection & Complaints**

1. The client must notify SVRI in writing of complaints about the work done within 8 days following their detection, but no later than within 14 days following completion of the work concerned. The notice of default must give as detailed a description as possible of the shortcoming, so that SVRI is in a position to respond adequately.
2. If a complaint proves to be well-founded, SVRI shall yet do the work as agreed upon, unless such has become demonstrably useless in the meantime to the client. The client must notify SVRI in writing if the latter is the case.
3. If it is no longer possible or useful to still do the work with respect to the provision of services agreed upon, SVRI shall only be liable within the limits of article 15.

#### **Article 12 Cancellation**

1. Both parties shall be entitled to cancel the agreement at all times.
2. If the agreement is terminated prematurely by client, SVRI shall be entitled to compensation of the loss of capacity utilisation to be demonstrated caused by said premature termination, unless the termination is based on facts and circumstances which can be attributed to SVRI. Client shall furthermore be held in that event to pay the statement of expenses for the work done up till that moment. The preliminary results of the work done up till that moment shall therefore be put at client's disposal subject to approval.
3. If the agreement is terminated prematurely by SVRI, SVRI shall see to it in conjunction with client that the work still to be done be transferred to third parties, unless the termination is based on facts and circumstances which can be attributed to client.
4. If the transfer of the work still to be done entails extra costs for SVRI, said costs shall be charged to client.

#### **Article 13 Suspension and Dissolution**

1. SVRI shall be authorised to suspend the fulfilment of the obligations under the agreement or to dissolve the agreement, in the event that:
  - client does not fulfil or does not fully fulfil his obligations resulting from the agreement
  - after the agreement has been concluded, SVRI learns of circumstances giving good ground to fear that the client will not fulfil his obligations. If good ground exists to fear that the client will only partially or improperly fulfil his obligations, suspension shall only be allowed in so far the shortcoming justifies such action.
  - client was asked to furnish security to guarantee the fulfilment of his obligations resulting from the agreement when the contract was concluded and that this security is not provided or insufficient.
2. SVRI shall furthermore be authorised to dissolve the agreement (have the agreement dissolved) if circumstances arise of such a nature that fulfilment of the obligations becomes impossible or can no longer be demanded in accordance with the requirements of reasonableness and fairness, or if other circumstances arise of such a nature that the unaltered maintenance of the agreement can no longer be demanded in all reasonableness.
3. If the agreement is dissolved, the claims of SVRI against the client shall be forthwith due and payable. If SVRI suspends fulfilment of his obligations, he shall retain his rights under the law and the agreement.
4. SVRI shall always retain the right to claim damages.

#### **Article 14 Return of Goods Put at Client's Disposal**

1. If SVRI has put goods at client's disposal during and in connection with the execution of the agreement, client shall be held to return the delivered goods within 14 days in their original state, free of defects and in their entirety. If client fails to fulfil this obligation, all resulting costs shall be at client's expense.
2. If, for any reason whatsoever, client still remains in default to fulfil the obligation mentioned under 1. after being warned to do so, SVRI shall be entitled to recover the resulting damage and costs, including replacement costs, from client.

#### **Article 15 Liability**

1. Should SVRI be liable, then said liability shall be limited to the stipulations of the present condition.
2. If SVRI is liable for direct damage, then said liability shall be limited to a maximum of twice the amount of the statement of expenses, at any rate that part of the assignment to which the liability relates.
3. In the event of an assignment with a duration of more than two months, the liability shall, contrary to the stipulations under 2. of the present article, furthermore be limited to the part of the fee still due for the last two months.
4. Direct damage shall be understood to be exclusively:
  - the reasonable costs incurred to establish the cause and the volume of the damage, in so far said establishment relates to damage in the sense of the present terms and conditions
  - the reasonable costs possibly incurred to have faulty performance of SVRI meet the conditions of the agreement, unless such faulty performance cannot be attributed to SVRI;
  - the reasonable costs incurred to prevent or limit the damage, in so far client demonstrates that said costs have led to the limitation of direct damage as meant in the present general terms and conditions.
5. SVRI shall never be liable for indirect damage, including consequential damage, loss of profit, lost savings and damage due to business stagnation.

#### **Article 16 Safeguarding**

1. The client shall safeguard SVRI against claims filed by third parties concerning intellectual property rights on material or data provided by the client, which shall be used for and during the execution of the agreement.

2. If the client provides SVRI with information carriers, electronic files or software etc., the former shall guarantee that said information carriers, electronic files or software are free of viruses and defects.

#### **Article 17 Transfer of Risk**

1. The risk of loss of, or damage to the goods being the subject of the agreement, shall be transferred to client the moment said goods are judicially and/or actually delivered to client and therefore fall into the power of client or of third parties to be appointed by client.

#### **Article 18 Force Majeure**

1. Parties shall not be held to fulfil any of their obligations if they are hindered to do so due to a circumstance through no fault of their own and which cannot be attributed to them by virtue of law, a legal action or generally accepted practice.
2. In addition to the provisions of the law and the judge-made law in this respect, force majeure shall in the present general terms and conditions furthermore be understood to be any external circumstance, be it envisaged or not, on which SVRI cannot have any influence but which prevents SVRI from fulfilling his obligations. Industrial action at the company of SVRI shall also be understood to be a circumstance of force majeure.
3. SVRI shall also be entitled to invoke force majeure if the circumstance rendering (further) fulfilment of the obligation(s) impossible, commences after the point in time on which SVRI should have fulfilled his obligation.
4. Throughout the duration of the circumstances of force majeure, parties shall be entitled to suspend the fulfilment of their obligations. If this period lasts for more than two months, either of the parties shall be entitled to dissolve the agreement without any obligation to pay the opposite party damages.
5. Insofar SVRI has already partially fulfilled his obligations resulting from the agreement at the moment the circumstance of force majeure commenced or shall be able to fulfil them and insofar separate value can be attributed to the part already fulfilled or still to be fulfilled respectively, SVRI shall be entitled to submit a separate statement of expenses of the part already fulfilled or still to be fulfilled respectively. The client shall be held to pay this statement of expenses as if it were a separate agreement.

#### **Article 19 Secrecy**

1. Both parties shall be bound to secrecy of all confidential information they have received within the scope of their agreement from each other or from another source. Information shall be considered to be confidential if the other party has indicated so or if the confidential character results from the nature of the information.
2. If a statutory provision or a judicial decision compels SVRI to convey confidential information to third parties designated by law or by the court and SVRI cannot for that purpose invoke a legal right to refuse to give evidence or such a right acknowledged or allowed by the competent court, SVRI shall not be held to pay damages or compensation and the opposite party shall not be entitled to demand the dissolution of the agreement on the ground of any damage resulting from said circumstance.

#### **Article 20 Intellectual Property and Copyrights**

1. Without prejudice to the other stipulations of the present general terms and conditions, SVRI shall reserve the rights and authorities to which SVRI is entitled under the Copyright Act.
2. All documents, such as reports, advice, agreements, designs, sketches, drawings, software, etc., provided by SVRI, shall be destined to be used by client exclusively and must not be reproduced, made public or brought to the notice of third parties by client without prior consent from SVRI, unless the nature of the documents provided dictates otherwise.
3. SVRI shall reserve the right to use the knowledge gained due to the execution of the work for other purposes, in so far no confidential information shall be brought to the notice of third parties when doing so.

#### **Article 21 Disputes and Applicable Law**

1. The competent court in Rotterdam shall have exclusive jurisdiction to hear actions, unless the District Court is the competent Court. SVRI shall nevertheless be entitled to submit the dispute to the Court deemed competent by the law.
2. Parties shall only refer the matter to the court if they have done their utmost to solve the dispute in mutual consultations.
3. Dutch law shall apply to each and every agreement between SVRI and the client.